

April 1, 2005

Hector Velez
252 West Erie Avenue
Philadelphia, PA 19140

Re: Furniture Direct, Inc. d/b/a Emes Bedding
Case 4-RD-2038

Dear Mr. Velez:

The above-captioned case petitioning for an investigation and certification of representative under Section 9(c) of the National Labor Relations Act, as amended, has been carefully investigated and considered.

As a result of the investigation, I find that further proceedings are unwarranted. The petition in this case was filed on March 9, 2005. On February 24, 2005, an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing issued in Cases 4-CA-33172 and 4-CA-33602 alleging, that the Employer has violated Section 8(a)(1) and (5) of the Act by failing and refusing to bargain collectively with International Brotherhood of Teamsters, Local 837, AFL-CIO, the exclusive collective bargaining representative of the unit of employees covered by the petition. As further set forth in the Consolidated Complaint, the General Counsel is seeking a Board Order extending the certification year pursuant to *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962), and requiring the Employer to bargain in good faith with the Union during this extended period. In view of the above, the petition in this case cannot properly raise a question concerning representation because it was filed during the period of the extended certification year sought by the Consolidated Complaint. *Big Three Industries*, 201 NLRB 197 (1973). Accordingly, I am dismissing the petition at this time, subject to reinstatement, if appropriate, upon disposition of the unfair labor practice proceeding. You are being made a party in interest in the unfair labor practice proceeding limited solely to the receipt of a copy of the Order or other document that operates to finally dispose of the proceeding.

Pursuant to the National Labor Relations Board Rules and Regulations, you may obtain a review of this action by filing a request therefor with the National Labor Relations Board, addressed to the Executive Secretary, National Labor Relations Board, Washington, DC 20570, either by mail (eight copies) or by electronic filing through the Agency's website. A copy of the request for review must be served on each of the other parties to the proceeding, and with the Regional Director either by mail or by electronic filing to Region4@nrlb.gov.¹ This request for review must contain a complete statement setting forth the facts and reasons upon which it is based. The request for review (eight copies) must be received by the Executive Secretary of the Board in Washington, D.C., by the close of business on **Monday, April 14, 2005**. Upon good cause shown, however, the Board may grant special permission for a longer period within which to file. The request for extension of time should be submitted to the Executive Secretary of the Board in Washington, D.C., and a copy of any such request for extension of time should be submitted to the Regional Director, and to each of the other parties to this proceeding.

¹ See OM 05-30, dated January 12, 2005, for a detailed explanation of requirements which must be met when electronically submitting representation case documents to the Board, or to a Region's electronic mailbox. OM 05-30 is available on the Agency's Web site at www.nrlb.gov.

The request for review and any request for extension of time for filing must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding, and the copy must be served in the same or faster manner as that utilized in filing the request with the Board. When filing with the Board is accomplished by personal service, however, the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail or telegraph.

Very truly yours,

DOROTHY L. MOORE-DUNCAN
Regional Director

cc:

Lester A. Heltzer, Executive Secretary, NLRB, Washington, DC 20570

Furniture Direct, Inc. d/b/a Emes Bedding, Jay Gold, 620 E. Erie Ave., Philadelphia, PA 19134

Jennings Sigmond, Stephen Holroyd, Esquire, Penn Mutual Towers, 16th Floor, 510 Walnut St.
Philadelphia, PA 19106-3683

International Brotherhood of Teamsters, Local 837, 12275 Townsend Road, Philadelphia, PA
19154

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